IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

MFA.No. 889 of 1998(B)

OPMV1.328/1992 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI
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APPELLANT - PETITIONER:

KUNHIMUHAMMED, S/O. MUHAMMED,
KOYYATTIL HOUSE, KARIPOOR P.O.,
KONDOTTY.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS - RESPONDENTS:
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1. P. MUHAMMED ASHRAF, S/O.MAMMUTTY,
PALLIPARAMBAN HOUSE,
PULIKKAL P.O.,
KONDOTTY (DRIVER OF JEEP KLL-9281)

2. K.P. MOOSAKUTTY, S/O. VEERAN,
POOLAKANDATHIL HOUSE,
PULIKKAL, KONDOTTY (OWNER)

3. THE ORIENTAL INSURACNE CO. LTD.,
BRANCH OFFICE, MANJERI.

BY ADV. SRI.M.P.MOHAMMED ASLAM
SRI.P.V.JYOTHI PRASAD
SRI.SHOBY K.FRANCIS

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 889 OF 1998

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Dated this the 18th day of September, 2007

J U D G M E N T

Notice to the first respondent, who is the driver of the vehicle involved in the accident, is dispensed with since the Tribunal has found that the accident occurred due to the negligence of the driver of the vehicle and vehicle was covered with a valid policy of insurance. That findings have become final and conclusive.

2. Appellant, petitioner in O.P(MV) No.1328 of 1998 on the file of the Motor Accidents Claims Tribunal, Manjeri, sustained injuries in a motor vehicle accident which took place on 26.11.1991 at about 8.30 p.m. He filed the petition claiming compensation against the owner, driver and Insurer of the vehicle. Appellant produced Exhibit A3 wound certificate to show that he sustained injuries on the head and other parts of the body. He was treated as an inpatient. Appellant claimed a compensation of Rs.25,000/-. Tribunal found that the accident occurred due to the negligence of the driver of the vehicle. Tribunal also found that the vehicle was

covered with a valid policy of insurance and awarded Rs.4,400/- as compensation with 12% interest. Dissatisfied with the quantum of compensation awarded by the Tribunal, petitioner has filed this appeal. The only question arising for consideration is whether the appellant is entitled to get any additional compensation.

3. Tribunal has awarded an amount Rs.2,500/- as compensation for pain and suffering. I am of the view that the Tribunal ought to have awarded Rs.2,500/- more under that count and Rs.500/- more towards medical expenses. So the appellant is entitled to get an additional compensation of Rs.3,000/-.

In the result, the appeal is allowed in part. An award is passed in favour of the appellant allowing him to recover an additional compensation of Rs.3,000/- with 6% interest from the date of petition till date of realisation. The Insurer is directed to deposit that amount also. On deposit, the appellant can withdraw the whole amount.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 889 OF 1998

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J U D G M E N T

18TH SEPTEMBER, 2007